

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

IDF 2557 (4000-15600)

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Application Number

10/781,377

Filed

2004-02-18

First Named Inventor

Randall L. Duncan

Art Unit

3696

Examiner

Anderson, John A.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Michael W. Piper/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/98)

Signature

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Typed or printed name

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☐ attorney or agent acting under 37 CFR 1.34.

02/03/10

Registration number if acting under 37 CFR 1.34 _____

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-------------|---------------------------|---|-----------------------------|
| Appellants: | Randall L. Duncan, et al. | § | |
| | | § | Group Art Unit: 3696 |
| Serial No.: | 10/781,377 | § | |
| | | § | Examiner: Anderson, John A. |
| Filed: | February 18, 2004 | § | |
| | | § | Confirmation No.: 2796 |
| For: | Streaming Conversion | § | |

REASONS FOR REQUESTING PRE-APPEAL REVIEW

In the Final Office Action dated November 3, 2009 (“Final Office Action”) independent claims 1, 7 and 15 were rejected under 35 USC 103(a) as allegedly being obvious over Bowman-Amuah, U.S. Patent No. 6,529,909 (“Bowman”) in view of Daley, U.S. Patent No. 5,650,994 (“Daley”). Accordingly, all of the pending claims stand or fall together based on the application of Bowman and Daley to independent claims 1, 7 and 15. Appellants respectfully submit that the Final Office Action had a clear error because the claimed limitations of a “the extractor, the translator, and loader components convert the unit of data during normal operation of the first and second systems” are clearly not met by Bowman and Daley.

Claim 1:

I. Bowman and Daley do not teach or suggest extracting data from a first system, converting the data into a format compatible with a second system, and loading the converted data into the second system during normal operation of the first and second system.

The Final Office Action cites Column 41, lines 40-50, of Daley to teach that the extracting, translating, and loading occurs during normal operation of first and second system. Appellants note that Daley in Column 41, lines 40-50 teaches:

In normal operation, the Level 1 gateway 108 requests establishment or tear down of specific connections through the ATM subnetwork 106. When the ATM switch(es) perform the requested connection function, reports thereof are provided to the PVC controller 248. The PVC controller in turn provides confirmation to the Level 1 Gateway 108. If necessary resources are not available when the Level 1 Gateway 108 requests a connection, the PVC controller 248 will so inform the Level 1 Gateway. (Emphasis added)

Accordingly, Appellants submit that Daley defines “normal operation” as Level 1 Gateway requesting establishment or tear down of specific connections. While Daley may disclose the

phrase, "normal operation," Daley does not teach or suggest any extractor component, much less an extractor component that functions during normal operation with the translator and loader components as claimed. Specifically, claim 1 recites, "wherein the normal operation comprises operating on data from the first system other than the unit of data from the first system during the conversion of the unit of data from the first system." Accordingly, claim 1 allows for the streaming conversion of small units of data from a first system to a second system while still enabling access to other units of data of the first system other than the units of data that are currently being converted. This is in contrast to batch techniques for converting data from a first system to a second system where access to large batches of data in the data store holding the data to be converted may be denied. See, for example, paragraphs [0006] and [0012]-[0014] of the pending specification.

To provide further context of Daley's disclosure of establishing connections, Appellants note that Daley discloses that the gateway receives a subscriber's request and a video information provider's acceptance of the subscriber's request, and translates the request and acceptance into a command to set up the desired communication session:

From the VIU perspective, a user will communicate with the network via the Level 1 Gateway 108 in order to select the VIP 116 for an IMTV session. In a network providing access to multiple IMTV service providers, the user wishing to establish an IMTV session identifies the provider of choice to the Level 1 Gateway 108 by inputting control signals to the user's DET, which supplies the appropriate signals upstream from the customer premises 126 to the Level 1 Gateway 108 via the corresponding LVAN 112 and the ATM backbone subnetwork 106. In response, the Level 1 Gateway 108 controls the broadband routing functionality of the network to establish a downstream broadband communication link and a signaling link between the provider and the user. (Column 24, lines 8-21)

The session agent function or application submodule of the Level 1 Gateway actually translates a subscriber's request to communicate with a particular VIP and that VIP's acceptance of the call from the subscriber into a command to the next level to take actions to set up the desired communication session. (Column 16, lines 7-12)

It appears that the Final Office Action may be attempting to interpret the gateway's translation of the subscriber request into a command as the claimed translation of the unit of data, and may be attempting to interpret the gateway's command to establish a connection as the claimed loading of the unit of data into the second system. Appellants respectfully traverse any such interpretation of the disclosure of Daley. Claim 1 requires that the extractor, the translator, and loader components

convert the unit of data extracted during normal operation. Daley's gateway passively receives subscriber requests in contrast to the claimed extractor component which actively extracts a unit of data from the first system.

The Final Office Action relied on the following disclosure in Bowman-Amuah (Column 20, lines 25-34) to read on the extractor component recited in claim 1:

Frameworks are used to help practitioners understand what components may be required and how the components fit together. Based on the inventory of components and the description of their relationships, practitioners will select the necessary components for their design. An architect extracts components from one or more Frameworks to meet a specific set of user or application requirements. Once an architecture has been implemented it is often referred to as an architecture or an infrastructure. (Emphasis added)

As shown above, Bowman-Amuah merely discloses steps that an architect might take to meet a set of user or application requirements. As shown, the word "extracts" is disclosed. However, Bowman-Amuah does not disclose what components would be extracted or how such an extraction actually might be accomplished (e.g., manually, computer-assisted, etc.). Clearly, Bowman-Amuah's disclosure of an architect extracting components from frameworks to meet user or application requirements does not teach or suggest an extractor component that extracts a unit of data from the first system during normal operations, as claimed.

The Final Office Action also cited to column 293, lines 60-65 to read on the claimed extractor component. Bowman-Amuah discloses in column 293, lines 60-61, "Object Streaming handles the conversion of data from the structures received from transactions into business objects." The cited section does not provide any disclosure of objects or structures being *extracted*. Rather, the cited section discloses that structures are *received*. Further, while the cited section of Bowman-Amuah may disclose the words "streaming" and "conversion," such isolated use of words of the claims does not provide substantial evidence of the structure of claim 1 when considered as a whole.

Even if Bowman-Amuah taught or suggested an extractor component that extracts a unit of data from the first system, which it does not, the combination of Bowman-Amuah and Daley still would not teach or suggest that extractor, translator, and loader components convert a unit of data extracted during normal operation of the first and second systems. Bowman-Amuah does not disclose that any extractor component extracts units of data during normal operations because

Bowman-Amuah describes an architect as extracting components from frameworks during a preliminary step in which a practitioner selects necessary components for their design, not during Bowman-Amuah's normal operations when object attributes are being converted to and from database values based on client requests. Daley does not compensate for this deficiency.

Further, Bowman-Amuah also does not disclose that the extracted framework components are translated into a format of a second system. The Final Office Action relied on disclosure in Bowman-Amuah on Column 44, line 65, to Column 45, line 1, which includes the word "translating," but has no bearing on the earlier disclosure of the extracted framework components. As required by the claim as a whole, the extractor, translator, and loader components all operate on the same unit of data.

Therefore, Bowman-Amuah in view of Daley does not teach or suggest extracting data from a first system, converting the data into a format compatible with a second system, and loading the converted data into the second system during normal operation of the first and second system. As noted above, streaming data conversion allows a data store of customer data to be converted from a legacy billing system to a new billing system with access blocked to only a small number of units of data during conversion, such that requests for other units of data can be fulfilled during conversion.

Claims 7 and 15:

Claims 7 and 15 includes limitations substantially similar to the limitations discussed in section I above. Accordingly, Appellants respectfully submit that the Final Office Action had a clear error because the limitations of claims 7 and 15 are clearly not met by Bowman and Daley as detailed in the arguments of section I above.

Conclusion

Appellants respectfully submit that the Final Office Action had clear errors because all of the limitations of the claims were clearly not met by the applied art for the reasons stated above. Accordingly, Appellants respectfully request prosecution to be reopened and Appellants respectfully submit that the present application is in condition for allowance.

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Date: February 3, 2010

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Respectfully submitted,

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